

HOUSE RESEARCH

Bill Summary

H. F. 1190, delete everything amendment (H1190DE1) **S. F.**

SUBJECT: Environmental Tax

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OVERVIEW

This bill, the "Economic Efficiency and Pollution Reduction Act (EPPRA), imposes a tax on energy and uses the revenue to eliminate the school general education property tax levy over a five-year period.

The new tax applies to the consumption of carbon-based fuels (coal, natural gas, liquid fuels, and mixed municipal solid waste) and the sale of electricity in Minnesota. Carbon-based fuels used to generate electricity are exempt from the tax, since a kilowatt hour based tax is imposed on consumers of electricity.

The tax begins January 1, 1999, but is phased in over a five year time period. The assessment rates, which will be determined by the commissioner of public service, are equal to \$10 per ton of carbon content in the first year, \$20 per ton in the second, and so on until the full assessment of \$50 per ton of carbon content is reached in the fifth year.

Section

- 1. General education tax rate phaseout.** Phases out the general education tax rate over a five-year period. Between fiscal years 2000 and 2004 (i.e., property taxes payable 1999 and 2003), the general education school tax rate will be proportionally decreased so that by property taxes payable in 2003, there will be no property tax levy for school general education purposes.
- 2. Citation.** Names the act "Economic Efficiency and Pollution Reduction Act" (EPPRA).

Section**3. Defines terms.**

Coal means bituminous coal, subbituminous coal, lignite, and coke.

Commissioner is the commissioner of revenue, except in section 8 and if expressly stated otherwise.

Liquid fuels is gasoline, liquefied petroleum gas, aviation gasoline, fuel oil and kerosene, diesel fuel, methanol from nonplant sources, and kerosene.

Natural gas is a naturally occurring mixture of hydrocarbons and nonhydrocarbon gases, the principal constituent of which is methane.

Person includes an individual, partnership, corporation, limited liability company, association, governmental unit or agency, or other public or private organization.

Primary carbon-based fuels are coal, mixed municipal solid waste and refuse-derived fuel, natural gas, and liquid fuels.

4. Environmental emissions assessment. Imposes the environmental emissions assessment.

Subdivision 1. Assessed fuels. (a) Provides that the use of primary carbon-based fuels and the sale of electricity to provide for in-state energy consumption are subject to the environmental emissions assessment under this chapter.

(b) The assessment does not apply to:

- (1) Ethanol, methanol from plant materials, wood, wood wastes, agricultural crops, crop residues, sludge, solvents, waste oil, hazardous waste, medical waste, and hydro-electricity.
- (2) The use of coal, natural gas, or a petroleum product for combustion in the generating facility of an electric utility.
- (3) The use of liquid fuel as a physical component of a manufactured product.

Subd. 2. Calculation of assessment. (a) Provides that the environmental emissions assessment applies to the carbon content of fuel **before** burning. Carbon content of the fuel must be estimated according to fuel type or subtype. The department of public service estimates the carbon content used in the calculation. The assessment is phased in over a five-year period and the final assessment rates at the end of the five-year period are \$50 per ton of carbon content of the fuel.

(b) The interim assessments for the period beginning January 1, 1999 are as follows:

Section

(1) gasoline	\$2.6 cents/gallon
(2) fuel oil (including diesel fuel)	\$2.9 cents/gallon
(3) natural gas	\$.15/thousand cubic feet
(4) coal having a heating value of over 11,500 BTU/pound	\$6.00/ton of coal
(5) coal having a heating value less than 11,500 BTU/pound	\$4.60/ton
(6) coal fired electricity	\$.361 cents/kwh
(7) gas fired electricity	\$.157 cents/kwh

(c) The assessment rate for electricity sold for consumption within the state is determined for each electric utility in mills per kilowatt hour. The assessment rate applies to all electricity sold by a utility for consumption in the state, whether or not the electricity was generated at the utility's facilities.

Each utility's final assessment rate is based on the mix of fuels used in its generating facilities or the facilities of the power plants from which the Minnesota utility purchases electricity, using the assessments cited above. The utility's generating facilities include facilities that are owned in whole or in part by the facility (those only partially owned will be apportioned), or provide firm capacity or energy by contract for a term of at least one year.

(d) The assessment rate for nuclear generated electricity is the average assessment on all assessable nonnuclear generated electricity sold to Minnesota customers.

Subd. 3. Phase-in of rates. Requires the department of public service to set the assessment rates for carbon-based fuels and electricity for the five year phase-in. The rates increase over the five year period (i.e. 20 percent per year) so that they will reach the full \$50 per ton amount at the end of the five year time period.

Subd. 4. Deposit of proceeds. Credits the assessments collected to the general fund.

5. Assessment procedure.

Subdivision 1. Coal. Provides that the carbon content of coal is assessed upon the first receipt of coal in the state for burning. The person who receives coal for burning is liable for the assessment.

Subd. 2. Natural gas. Provides that the carbon content of natural gas is assessed upon the first receipt of natural gas in the state. The person in the state who first receives the natural gas from outside of the state is liable for the assessment.

Section

Subd. 3. Waste and refuse-derived fuel. Provides that the carbon content of mixed municipal solid waste (MMSW) and refuse-derived fuel (RDF) is assessed upon incineration of the fuel in the state. The person who burns MMSW and RDF in the state is liable for the assessment.

Subd. 4. Liquid fuels. Provides that the carbon content of liquid fuels is assessed when first withdrawn from storage at a pipeline terminal, river terminal, refinery, or otherwise first distributed in the state.

Subd. 5. Electricity. Provides that electricity is assessed at the time of sale by the electric utility to the consumer billed for the electricity. The consumer is liable for the assessment, but the electric utility must collect and remit it to the state.

6. High Impact Refund.

Subdivision 1. High impact refund. States that the high impact refund, in combination with the elimination of the general education property tax levy will help protect persons whose business activities are highly carbon intensive from excessive tax burdens under this act.

Provides that if the amount of the environmental emissions assessment paid by a business (that is not a utility) exceeds specified thresholds of the business's sales, a refund is allowed. The refund schedule is:

- ▶ For assessments over 1.5 percent of sales, 25 percent of assessment is refunded;
- ▶ For assessments over 2.0 percent of sales, 35 percent of assessment is refunded;
- ▶ For assessments over 2.5 percent of sales, 45 percent of assessment is refunded;
- ▶ For assessments over 3.0 percent of sales, 50 percent of assessment is refunded;
- ▶ For assessments over 3.5 percent of sales, 60 percent of assessment is refunded;
- ▶ For assessments over 4.0 percent of sales, 65 percent of assessment is refunded.

To qualify for this refund, the business must conduct a study of the business's energy use and identify capital improvements with a five year payback. The report must detail a five year plan for implementation of these improvements. A copy of this report must be provided with the application for the refund. The capital improvements must be implemented by the time of the business's fifth application for a refund. If the improvements have not been implemented, the refunds are subject to recapture.

Subd. 2. Liquid fuel. Authorizes refunds of the assessment paid on exempt liquid fuel.

Section

Subd. 3. Application. Requires an application for a refund to be made on a form prescribed by the commissioner. Refunds are subject to the same rules and procedures as other tax refunds.

Subd. 4. Appropriation. Appropriates an amount to the commissioner sufficient to make refunds.

7. Administration and enforcement.

Subdivision 1. Annual returns. Requires annual returns for the assessment to be filed by April 15 of the next year. Any assessment amount not paid in full must be submitted with the return.

Subd. 2. Declaration of estimated assessment. Requires payment of estimated declaration payments, if it is anticipated that the liability for the year will be more than \$1,000. The declaration must be paid by the 15th of March, June, September, and December. The commissioner may grant an extension for filing.

Subd. 3. Failure to pay estimated assessment. Provides that the tax administration and enforcement under the environmental response and liability chapter apply to persons who do not pay the assessment.

Subd. 4. Refunds. Applies the department of revenue's tax administration and compliance provisions for tax refunds to the refunds under this chapter.

Subd. 5. Exchange of information. Directs the commissioner of public service to provide the commissioner of revenue with information necessary to enforce the assessment. The information disclosed retains its nonpublic nature, to the extent it was classified nonpublic before disclosure.

Subd. 6. Duties of the commissioner. Directs the commissioner of public service to give the commissioner of revenue the names and addresses of the persons that are subject to the assessment, and to notify the commissioner of any suspected inaccurate or fraudulent declaration. The commissioner of public service may assist in auditing, if requested.

Subd. 7. Rules. Authorizes the commissioner of revenue to adopt rules to administer this chapter.

Subd. 8. Enforcement. Applies the same auditing, penalties, enforcement provisions to the assessment as used for other taxes administered by the department.

Section

- 8. Energy efficiency loans.** Directs the commissioner of public service to establish an energy efficiency loan program to make low-interest loans to businesses. The loans are to be used to finance energy efficiency improvements necessary to obtain high impact refunds under section 6, subdivision 1. The commissioner will set the loan terms. A minimum interest rate applies equal to the rate on state tax exempt general obligation bonds. The commissioner may set a higher rate based on the credit risk involved with the loan. Loans are financed through a revolving sub-account in the energy and conservation account. The loan program sunsets on December 31, 2005. Any moneys in the subaccount at that time cancel to the general fund.
- 9. Education homestead credit phaseout.** Phases out the education homestead credit over the five-year period from taxes payable in 1999 to taxes payable in 2003. This phaseout is done in conjunction with the general education takeover by the state in section 1.
- 10. Property tax refund for renters.** Increases the percent of rent constituting property taxes from the current 18 percent to 25 percent (section 10). This increase in the property tax refund recognizes the effect on renters from the property tax changes and the environmental emissions assessment under this act. Section 11 makes the same changes in the "property taxes payable" on site rental for manufactured homes.
- 11**
- 12. Appropriations.**
- Subd. 1.** (a) Appropriates the following amounts from the general fund for fiscal year 1999:
- (1) \$20 million to the commissioner of public service for weatherization grants and loans;
 - (2) \$14 million to the metropolitan council for transit operations.
 - (3) \$16 million to the commissioner of transportation for bridge repair.
- (b) Appropriates the following amounts from the general fund to the commissioner of public service for deposit in the energy and conservation account to make energy efficiency loans to businesses:
- (1) \$10 million for fiscal year 1999;
 - (2) \$20 million for fiscal year 2000;
 - (3) \$20 million for fiscal year 2001.

Section

(c) Appropriates \$20 million annually to the commissioner of children, families and learning from the general fund for deposit in the statewide fuel account for energy assistance to low-income households.

Subd. 2. Carry forward. Provides that the appropriations under this section do not lapse and may be carried forward until spent.

- 13. TIF grants and pooling authority; appropriations.** Appropriates \$..... for grants to cities that have citywide TIF deficits as a result of the phaseout of the general education levy. (Dollar amount is left blank in the bill.) In order to qualify, the deficits must be due to binding contracts and obligations entered into before enactment of the bill.

Application must be made to the commissioner of revenue to receive the grants. Calculations of TIF obligations will be made using data filed with the state auditor. (Timely reports must have been filed with the state auditor for the city to qualify for a grant.) The grant will be made the year after the deficit occurs. If the available appropriation is less than the grant entitlement, the grants are proportionately reduced.

This section also provides an exemption from pooling restrictions (both the post-1990 percentage restrictions and the pre-1982 prohibition on pooling). This exemption allows cities to pool TIF revenues to offset shortfalls caused by changes in the general education school levy that make it impossible to meet prior binding contracts and obligations. Use of this pooling authority must be approved by the commissioner of revenue.

- 14. Effective date.** Provides that sections 2 to 7 are effective January 1, 1999. Sections 8, 12, and 13 are effective July 1, 1999. Sections 10 and 11 are effective beginning for property tax refunds based on rent paid after December 31, 1998.